

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LAMMERS BARREL PRP GROUP,)	CASE NO. 3:17-cv-00135-WHR
)	
Plaintiff,)	JUDGE WALTER H. RICE
)	MAGISTRATE JUDGE SHARON L.
v.)	OVINGTON
)	
CARBOLINE COMPANY, <i>et al.</i>)	ETC SUNOCO HOLDINGS, LLC
)	F/K/A SUNOCO, INC.'S AND
Defendants.)	CARBOLINE COMPANY'S
)	MOTION <i>IN LIMINE</i> TO EXCLUDE
)	2001 AND 2003 DEPOSITIONS

Pursuant to Rule 32(a)(8) of the Federal Rules of Civil Procedure and Rule 804(b)(1) of the Federal Rules of Evidence, Defendants ETC Sunoco Holdings, LLC f/k/a Sunoco, Inc. (“Sunoco”) and Carboline Company (“Carboline”), by and through their undersigned counsel, move the Court *in limine* for an Order precluding Plaintiff, Lammers Barrel PRP Group (“Plaintiff”), from introducing against either Sunoco or Carboline the deposition testimony of two deceased witnesses – Anthony Kohnen and Cecil Brown – including administrative depositions taken in 2001 and Rule 27 depositions taken in 2003. As set forth more fully in the attached Memorandum in Support of this Motion, which is incorporated herein by reference, neither Sunoco nor Carboline was given notice of these depositions and had no opportunity to cross-examine the witnesses.

Additionally, given the passage of time and the age and infirmity of the witnesses at the time of their depositions, their testimony does not present equivalent trustworthiness sufficient to permit the admission of the testimony under Federal Rule of Evidence 807. Accordingly, the Court

should grant this Motion and preclude Plaintiff from introducing testimony from Messrs. Kohnen, Brown and Scott at the trial of this action.

Date: November 5, 2019

Respectfully submitted,

/s/ William E. Coughlin
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Attorneys for Defendants ETC Sunoco
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Carboline Company

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2019, the foregoing **ETC SUNOCO HOLDINGS, LLC F/K/A SUNOCO, INC.'S AND CARBOLINE COMPANY'S MOTION *IN LIMINE* TO EXCLUDE 2001 AND 2003 DEPOSITIONS**, with its Memorandum in Support and supporting Declaration and Exhibits, was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/William E. Coughlin

One of the Attorneys for ETC Sunoco
Holdings, LLC f/k/a Sunoco, Inc. and
Carboline Company